AMENDMENTS TO THE CALIFORNIA RULES OF COURT AND STANDARDS OF JUDICIAL ADMINISTRATION

Adopted by the Judicial Council
Effective May 16* and July 1, 1997

CALIFORNIA RULES OF COURT

Rule 14. Additional briefs

(a) * * *

(b) [Brief of amicus curiae in Supreme Court] An individual or entity desiring to support or oppose the granting of a petition for review or original writ in the Supreme Court shall lodge a letter in that court in lieu of a brief of amicus curiae. The letter shall state the nature of the applicant's interest and conform to the requirements of rule 28(e) regarding incorporation of documents by reference and annexed material. The letter shall be accompanied by proof of service on each party to the action or proceeding. The court may, in its discretion, elect to consider the letter and may, in its discretion, cause the letter to be filed in the action or proceeding. The fact that a person lodged a letter on the question of granting the petition does not constitute leave for that person to file a brief amicus on the merits if the petition is granted; all persons seeking to file a brief amicus on the merits shall comply with the requirements of the next paragraph and briefs on the merits in the Supreme Court shall conform as nearly as possible to the requirements of rule 29.3(c).

A brief of amicus curiae in the Supreme Court on the merits of an action or proceeding may be filed on permission first obtained from the Chief Justice. To obtain permission, the applicant shall file with the clerk of the Supreme Court a signed request, accompanied by the proposed brief, stating the nature of the applicant's interest and setting forth facts or questions of law that have not adequately been presented by the parties and their relevancy to the disposition of the case. The request and proposed brief must be received by the court no later than 30 days after all briefs, other than supplemental briefs, that the parties are entitled to file pursuant to rule 29.3 either have been filed or can no longer be filed within the time limits prescribed by that rule. The Chief Justice may grant leave for later filing if the applicant presents specific and compelling reasons for the delay. Any answer to an amicus curiae brief shall be filed by the parties no later than 20 days after the filing of the amicus curiae brief. Before the amicus curiae brief or an answer is filed, it shall be served on all parties. If the brief is in support of the position of one of the parties, that fact shall be noted on the cover of the brief. [Subdivision amended effective July 1, 1997; previously amended effective July 1, 1989, July 1, 1995, and Jan. 1, 1997.]

(c) [Brief of amicus curiae in Court of Appeal] A brief of amicus curiae in a Court of Appeal on the merits of an action or proceeding may be filed on permission first obtained from the presiding justice subject to conditions which may be prescribed. To obtain permission, the applicant shall file with the clerk of

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* Rules 39.54 and 39.55.

the reviewing court a signed request that states the nature of the applicant's interest and specifies the points to be argued in the brief. ~~and~~ The request shall state~~s~~ that the applicant is familiar with the questions involved in the case and the scope of their presentation and believes there is a necessity for additional argument on the points specified. If the application is granted, the time within which the brief may be filed and the time within which any party to the appeal may file an answer to it shall be specified. Before the amicus curiae brief or an answer is filed, it shall be served on all parties. If the brief is in support of the position of one of the parties, that fact shall be noted on the cover of the brief. [Subdivision amended effective July 1, 1997; previously amended and renumbered effective July 1, 1995.]

(d) * * *

Rule 16. Service and filing

(a) * * *

(b) [Copy for trial judge] No brief shall be filed without proof of the deposit of one copy with the clerk of the superior court for delivery to the judge who presided at the trial of the case. The clerk shall deliver the brief to the judge and need not maintain a copy in the court file. [Subdivision amended effective July 1, 1997; previously amended effective Jan. 1, 1951, and Jan. 2, 1962.]

(c) * * *

Rule 28. Review by the Supreme Court

(a)-(d) * * *

(e) [Form of petition, answer, and reply]

(1)-(3) * * *

(4) The original petition and each copy ~~of the petition~~ filed in the Supreme Court shall contain or be accompanied by a copy of the opinion of the Court of Appeal, showing the date of filing. [Subdivision amended effective July 1, 1997; previously amended effective Jan. 1, 1983; previously amended and relettered effective May 6, 1985; amended effective July 1, 1988, July 1, 1989, and July 1, 1996.]

(5)-(7) * * *

(f)-(g) * * *

Rule 33.6. Sealing juror-identifying information in the record on appeal (Code Civ. Proc., § 237)

The clerk and reporter shall use the following procedures to comply with Code of Civil Procedure section 237(a)(2) when preparing the clerk's transcript, the reporter's transcript, or any other document included in the appellate record that contains juror-identifying information:

(1) (*Jurors' names)* The names of trial jurors, including alternates, who were sworn to hear the case shall be redacted from all documents, and an identifying number shall be substituted wherever a juror's name appears. The clerk shall prepare a key correlating the jurors' names with their identifying numbers, which shall be used by both the clerk and the reporter in preparing transcripts or other documents. The key shall be kept under seal in the trial court's file.

(2) *(Addresses and telephone numbers)* The addresses and telephone numbers of trial jurors, including alternates, who were sworn to hear the case shall be redacted from the original and all copies of the transcript.

(3) *(Capital cases)* In appeals in capital cases, an unredacted version of the redacted pages and a copy of the key correlating juror names with numbers shall be bound together and transmitted to the Supreme Court under seal.

(4) *(Potential jurors)* Juror-identifying information about potential jurors who were called for the case but were not sworn to sit as trial jurors or alternates shall not be sealed unless an order so directing has been issued under Code of Civil Procedure section 237(a)(1). [Adopted effective July 1, 1997.]

Rule 39.5. Appeals in death penalty cases [Renumbered as rules 39.50-39.51 effective March 1, 1997.]

Rule 39.54. Certification of record for completeness in death penalty cases

(a)-(c) * * *

(d) [Hearings on completion of record] If a request for additional materials or for corrections is filed, the clerk shall deliver the original transcript to the judge who presided over the trial. A determination on the request shall be made as follows:

(1) * * *

(2) The trial court shall order any additional transcripts or corrections to be prepared within 10 days of the date of the order. The clerk shall promptly, and in any event ~~in no less than~~ within five days, notify the reporter of the court's order. If a transcript of any part of the oral proceedings cannot be obtained, the court may make an order permitting the preparation of a settled statement in accordance with rule 36.

(3)-(4) * * * [Subdivision amended effective May 16, 1997; adopted effective March 1, 1997.]

(e)-(k) * * *

Rule 39.55. Certification of record for accuracy in death penalty cases

(a)-(d) * * *

(e) [Preparation of computer-readable copies] Upon certification of the record as accurate, the clerk shall promptly notify the reporter to prepare four

corrected computer-readable copies of the transcript, plus an additional computer-readable copy for each additional co-defendant who has been sentenced to death. The computer-readable copies shall conform to the requirements of Code of Civil Procedure section 269(c) and rule 35(b) and shall be labeled to show the date on which they were made. The computer-readable copies shall contain the identical volume divisions, pagination, line numbering, and text of the original paper transcript as corrected and certified as accurate. Each transcript of a confidential proceeding shall be placed on a separate disk and clearly labeled as confidential. The reporter shall deliver the computer-readable copies of the transcript ~~no less than~~ within 10 days after the date the clerk gives notice of certification. [Subdivision amended effective May 16, 1997; adopted effective March 1, 1997.]

(f)-(h) * * *

Rule 55. Preservation and destruction of records in Court of Appeal; minutes

(a) [Form in which records may be preserved] Appellate court records may be preserved in any form of communication or representation, including optical, electronic, magnetic, micrographic, or photographic media or other technology capable of accurately producing or reproducing the original record according to minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management. If records are

preserved in a form other than paper, the provisions of Government Code section 68150, subdivisions (b) through (d) and (f) (not including subdivision (f)(1)) through (h), shall apply. [Subdivision adopted effective July 1, 1997.]

~~(a)~~ **(b)** * * * [Subdivision relettered effective July 1, 1997.]

~~(b)~~ **(c)** * * * [Subdivision relettered effective July 1, 1997.]

Rule 105. Briefs

(a)-(e) * * *

(f) [Copy for trial judge] No brief shall be filed without proof of the deposit of one copy with the clerk of the trial court for delivery to the judge who presided at the trial of the case. The clerk shall deliver the brief to the judge and need not maintain a copy in the court file. [Subdivision amended effective July 1, 1997; adopted effective July 1, 1972.]

Rule 202.5. Service of papers on the clerk when a party's address is unknown

When service is made under Code of Civil Procedure section 1011(b) and a party's residence address is unknown, the notice or papers delivered to the clerk or the judge, if there is no clerk, shall be enclosed in an envelope addressed to the party in care of the clerk or the judge. The back of the envelope shall bear the following information:

"Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown."

[Name of party whose residence address is unknown]

[Case name and number] [Adopted effective July 1, 1997.]

Rule 301. Applicability

The rules in this division apply to proceedings in civil law and motion, as defined in rule 303(a), in superior~~,~~ and municipal~~, and justice~~ courts and to discovery proceedings in family law and probate. [Amended effective July 1, 1997; previously amended effective July 1, 1984; adopted effective Jan. 1, 1984.]

Rule 302. Form and format—preemptive effect

By enacting the rules in this title, the Judicial Council intends to occupy the field of form and format of papers, motions, demurrers, discovery, and pleadings. No trial court, or any division or branch of a trial court, shall enact or enforce any local rule concerning the form or format of papers, motions, demurrers, discovery, or pleadings. The rules set forth in this title alone shall govern the form and format of papers, motions, demurrers, discovery, pleadings, preliminary injunctions and bonds, and ex parte applications and orders. All local rules concerning the form and format of papers, motions, demurrers, discovery, and

pleadings are null and void as of the effective date of this rule. [Adopted effective July 1, 1997.]

Rule 303. Definitions and construction

(a) [Law and motion defined] "Law and motion" includes any proceedings:

(1) On application before trial for an order, except for causes arising under the Welfare and Institutions Code, the Probate Code, the Family ~~Law Act~~ Code ~~(Civil Code, §§ 4000-5174)~~, or Code of Civil Procedure sections ~~540-553 (concerning prevention of domestic violence)~~ 527.6, 527.7, and 527.8; or

(2) * * * [Subdivision amended effective July 1, 1997; adopted effective Jan. 1, 1984.]

(b)-(c) * * *

Rule 311. General format

(a) * * *

(b) [Date of hearing; other documents] The first page of each paper shall specify immediately below the number of the case (1) the date, time, and location, if ascertainable, of any scheduled hearing and the name of the hearing judge, if ascertainable; (2) the nature or title of any attached document other than an exhibit; ~~and~~ (3) the date of filing of the action; and ~~(3)~~(4) the trial date, if set.

Documents bound together shall be consecutively paginated. [Subdivision amended effective July 1, 1997.]

(c) * * *

(d) [Binding] All pages of each document and exhibit shall be attached together at the top by a method that permits pages to be easily turned and the entire content of each page to be read. [Subdivision adopted effective July 1, 1997.]

(e) [Exhibits] Each exhibit shall be separated by a hard 8-1/2 x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. An index to exhibits shall be provided. Pages from a single deposition and associated exhibits shall be designated as a single exhibit. Exhibits written in a foreign language shall be accompanied by an English translation, certified under oath by a qualified interpreter. [Subdivision adopted effective July 1, 1997.]

Rule 312. Motions, demurrers, and other pleadings

(a) [Motions and demurrers—required papers] The papers filed in support of a motion or demurrer shall consist of at least the following: (1) the motion or demurrer itself, (2) a notice of hearing on the motion or demurrer, and (3) a memorandum of points and authorities in support of the motion or demurrer. These papers may be filed as separate documents or may be combined in one or

more documents if the party filing a combined pleading specifies these items separately in the caption of the combined pleading. Other papers may be filed in support of a motion or demurrer, such as declarations, exhibits, appendices, or other documents or pleadings.

(b) [Motion—required elements] A motion shall (1) identify the party or parties bringing the motion; (2) name the parties to whom it is addressed; (3) briefly state the basis for the motion and the relief sought; and (4) if a pleading is challenged, state the specific portion challenged.

(c) [Memorandum of points and authorities] A memorandum of points and authorities filed in support of a motion or demurrer shall comply with rule 313.

(d) [Motion in limine] Notwithstanding subdivisions (a) through (c), a motion in limine filed before or during trial need not be accompanied by a notice of hearing. The timing and place of the filing and service of the motion shall be at the discretion of the trial judge. The motion shall comply with the requirements of rules 201, 313, 315, and 316.

(e) [Additional requirements for motions and demurrers] In addition to the requirements of this rule, a motion or demurrer relating to the subjects specified in chapter 4 of this division (rule 325 et seq.) shall comply with any additional requirements in that chapter.

(f) [Amended pleadings] Amendments to pleadings and amended pleadings shall comply with rule 327.

(g) [Causes of action—form] Each separate cause of action or affirmative defense in a pleading shall specifically identify its number (e.g., "First cause of Action"); its nature (e.g., "for Fraud"); the party asserting it, if more than one party is represented in the pleading (e.g., "by Plaintiff Jones"); and the party or parties to whom it is directed (e.g., "against Defendant Smith").

(h) [Captions of pleadings] Except for an original complaint, petition, cross-complaint, or cross-petition, every pleading, motion, and demurrer may bear the "short caption" of the case, consisting of the name of the first party on each side. All cross-complaints or cross-petitions shall be collectively referenced at the bottom of the short caption as "and Related Cross-Actions." If a pleading, motion, or demurrer pertains to a particular cross-complaint or cross-petition, the caption shall identify the particular cross-complaint or cross-petition using only the names of the first-named cross-complainant or cross-petitioner and first-named cross-defendant or cross-respondent in the original cross-complaint or cross-petition.

[Adopted effective July 1, 1997.]

Rule 313. Memorandum of points and authorities

(a)-(c) * * *

(d) [Length of memorandum; requirements for lengthy memorandum] Except in a summary judgment or summary adjudication motion, no opening or responding memorandum of points and authorities shall exceed 15 pages ~~in length~~. In a summary judgment or summary adjudication motion, no opening or responding memorandum of points and authorities shall exceed 20 pages ~~in length~~. No reply or closing memorandum of points and authorities shall exceed 10 pages ~~in length~~. The page limit shall not take into account exhibits, declarations, attachments, ~~and~~ a table of contents, a table of authorities, or the proof of service. A party may apply to the court~~,~~ ex parte but with written notice of the application to the other parties, at least 24 hours before the memorandum is due, for permission to file a longer memorandum. The application shall state reasons why the argument cannot be made within the stated limit. A memorandum of points and authorities that exceeds 10 pages shall include a table of contents and table of authorities. A memorandum of points and authorities that exceeds 15 pages shall also include an opening summary of argument. A memorandum that exceeds the page limits of these rules shall be filed and considered in the same manner as a late-filed paper. [Subdivision amended effective July 1, 1997; previously amended effective July 1, 1984, and Jan. 1, 1992.]

(e) [Use of *California Style Manual*] The style used in a memorandum of points and authorities shall be that set forth in the *California Style Manual*, or that set forth in the most recent edition of the *Uniform System of Citation*, at the option

of the party filing the document. The same style shall be used consistently throughout the memorandum. If any authority other than California cases, statutes, constitutional provisions or state or local rules is cited, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits as required by rule 311(e). If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and be tabbed as required by rule 311(e). [Subdivision amended effective July 1, 1997; adopted effective Jan. 1, 1992.]

(f) [Attachments] To the extent practicable, all supporting memoranda of points and authorities, declarations, and affidavits shall be attached to the notice of motion. [Subdivision adopted effective July 1, 1997.]

(g) [Exhibit references] All references to exhibits or declarations in supporting or opposing papers shall reference the number or letter of the exhibit, the specific page, and, if applicable, the paragraph or line number. [Subdivision adopted effective July 1, 1997.]

(h) [Requests for judicial notice] Any request for judicial notice shall be made in a separate document listing the specific items for which notice is requested and shall comply with rule 323(b). [Subdivision adopted effective July 1, 1997.]

(i) [Proposed orders or judgments] If a proposed order or judgment is submitted, it shall be lodged and served with the moving papers but shall not be attached to them. [Subdivision adopted effective July 1, 1997.]

Rule 342. Motion for summary judgment or summary adjudication

(a) [Motion] As used in this rule, "motion" refers to either a motion for summary judgment or a motion for summary adjudication.

(b) [Motion for summary adjudication] If made in the alternative, a motion for summary adjudication may make reference to and depend upon the same evidence submitted in support of the summary judgment motion. If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty shall be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts.

(c) [Documents in support of motion] The motion shall contain and be supported by the following documents:

(1) Notice of motion by [*moving party*] for summary judgment or summary adjudication or both.

(2) Separate statement of undisputed material facts in support of [*moving party's*] motion for summary judgment or summary adjudication or both.

(3) Memorandum of points and authorities in support of [*moving party's*] motion for summary judgment or summary adjudication or both.

(4) Evidence in support of [*moving party's*] motion for summary judgment or summary adjudication or both.

(5) Request for judicial notice in support of [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate).

(d) [Separate statement in support of motion] The separate Statement of Undisputed Material Facts in support of a motion shall separately identify each cause of action, claim, issue of duty or affirmative defense, and each supporting material fact claimed to be without dispute with respect to the cause of action, claim, issue of duty, or affirmative defense. In a two-column format, the statement shall state in numerical sequence the undisputed material facts in the first column and the evidence that establishes those undisputed facts in the second column. Citation to the evidence in support of each material fact shall include reference to the exhibit, title, and page, and line numbers.

(e) [Documents in opposition to motion] The opposition to a motion shall consist of the following documents, separately stapled and titled as shown:

(1) [*Opposing party's*] memorandum of points and authorities in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both.

(2) [*Opposing party's*] separate statement of undisputed material facts in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both.

(3) [*Opposing party's*] evidence in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate).

(4) [*Opposing party's*] request for judicial notice in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate).

(f) [Opposition to motion; content of separate statement] Each material fact claimed by the moving party to be undisputed shall be set out verbatim on the left side of the page, below which shall be set out the evidence said by the moving party to establish that fact, complete with the moving party's references to exhibits. On the right side of the page, directly opposite the recitation of the moving party's statement of material facts and supporting evidence, the response shall unequivocally state whether that fact is "disputed" or "undisputed." An opposing party who contends that a fact is disputed shall state, on the right side of the page directly opposite the fact in dispute, the nature of the dispute and describe the evidence that supports the position that the fact is controverted. That evidence shall be supported by citation to exhibit, title, and page, and line numbers in the evidence submitted.

(g) [Documentary evidence] If evidence in support of or in opposition to a motion exceeds 25 pages, the evidence shall be in a separately bound volume and shall include a table of contents.

(h) [Format for separate statements] Supporting and opposing separate statements shall follow this format:

Supporting statement:	
1. Plaintiff and defendant entered into a written contract for the sale of widgets.	Jackson declaration, 2:17-21; contract, Ex. A to Jackson declaration.
2. No widgets were ever received.	Jackson declaration, 3:7-21.
Opposing statement:	
1. Plaintiff and defendant entered into a written contract for the sale of widgets.	Undisputed.
Jones declaration, 2:17-21; contract, Ex. A to Jones declaration.	
2. No widgets were received.	Disputed. The widgets were received in New Zealand on

August 31, 1991. Baygi declaration, 7:2-5.

[Adopted effective July 1, 1997.]

Rule 359. Preliminary injunctions and bonds

(a) [Manner of application and service] A preliminary injunction may be obtained by noticed motion or by application for an order to show cause ("OSC"). An OSC shall be used when a temporary restraining order ("TRO") is sought, or if the party against whom the preliminary injunction is sought has not appeared in the action. If the responding party has not appeared, the noticed motion shall be served in the same manner as a summons and complaint. [Subdivision adopted effective July 1, 1997.]

(b) [Filing of complaint or obtaining of court file] If the action is initiated the same day a TRO or OSC is sought, the complaint shall be filed first. A file-stamped copy of the complaint shall be made available to the judge who will hear the application. If an application for a TRO or OSC is made in an existing case, the moving party shall arrange for the court file to be made available to the judge hearing the application. [Subdivision adopted effective July 1, 1997.]

(c) [Form of TRO and OSC] The TRO and OSC shall be stated separately, with the OSC stated first. The restraining language sought in an OSC and a TRO shall be separately stated in the OSC and the TRO and may not be

incorporated by reference. The OSC shall describe the injunction to be sought at the hearing. The TRO shall describe the activities to be enjoined pending the hearing. A proposed OSC shall contain blank spaces for the time and manner of service on responding parties, for a briefing schedule, and, if applicable, for the expiration date of the order for completion by the court or clerk. [Subdivision adopted effective July 1, 1997.]

(d) [Proof of service] A file-stamped proof of service for all papers supporting an OSC or TRO shall be delivered at least 24 hours before the hearing, absent a showing of good cause, to the courtroom of the judge hearing the OSC. [Subdivision adopted effective July 1, 1997.]

(e) [Personal attendance] TROs will be granted only if the moving party or counsel for the moving party is personally present. [Subdivision adopted effective July 1, 1997.]

(f) [Previous applications] An application for a TRO or OSC shall state whether there has been any previous application to any judicial officer for similar relief and, if so, the result of the application. [Subdivision adopted effective July 1, 1997.]

(g) [Undertaking] Notwithstanding rule 391, whenever an application for a preliminary injunction is granted, a proposed order shall be presented to the judge for signature with an undertaking in the amount ordered, within one court day after the granting of the application or within the time ordered. Unless

otherwise ordered, any restraining order previously granted shall remain in effect during the time allowed for presentation for signature of the order of injunction and undertaking. If the proposed order and the undertaking required are not presented within the time allowed, the ~~temporary restraining order~~ TRO may be vacated without notice. All bonds and undertakings shall comply with rule 381. [Subdivision amended and relettered effective July 1, 1997; adopted effective Jan. 1, 1984.]

Rule 379. Ex parte applications and orders in civil law and motion proceedings in superior and municipal courts and discovery proceedings in family law and probate proceedings

(a) [Ex parte application] An application for an order shall not be made ex parte unless it appears by affidavit or declaration (1) that within a reasonable time before the application the party informed the opposing party or the opposing party's attorney when and where the application would be made; or (2) that the party in good faith attempted to inform the opposing party and the opposing party's attorney but was unable to do so, specifying the efforts made to inform them; or (3) that for reasons specified the party should not be required to inform the opposing party or the opposing party's attorney. [Subdivision amended effective July 1, 1997; adopted effective Jan. 1, 1984.]

(b) [Notice] A party seeking an ex parte order shall give a minimum of 24 hours' notice to all parties prior to the ex parte appearance, absent a showing of exceptional circumstances. A declaration of notice, including the date, time, manner, and name of the party informed, any response, and whether opposition is expected, or a declaration stating reasons why notice should not be required, shall accompany every request for an ex parte order.

A request for an ex parte order shall state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of such party if known to the applicant.

When an application for an ex parte order has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, shall include a full disclosure of any prior applications and the court's actions. [Subdivision adopted effective July 1, 1997.]

(c) [Content of notice] When notice of an application is given, the person giving notice shall state with specificity the nature of the relief to be requested and the date, time, and place for the presentment of the application, and shall attempt to determine whether the opposing party and/or counsel will appear to oppose the application. [Subdivision adopted effective July 1, 1997.]

(d) [Required documents] Ex parte applications shall be in writing and include all of the following: (1) an application containing the case caption and stating the relief requested; (2) a declaration in support of the application; (3) a competent declaration based on personal knowledge as described in subdivision (b); (4) points and authorities; and (5) a proposed order. [Subdivision adopted effective July 1, 1997.]

(e) [Affirmative factual showing required] An applicant shall make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting ex parte relief rather than setting the matter for hearing on noticed motion. [Subdivision adopted effective July 1, 1997.]

(f) [Service of papers] Parties appearing at the ex parte hearing shall serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing shall be conducted unless such service has been made. [Subdivision adopted effective July 1, 1997.]

(g) [Personal appearance requirements] An ex parte application will be considered without a personal appearance of the applicant or applicant's counsel in the following cases only: (1) applications to file points and authorities in excess of the applicable page limit; (2) setting of hearing dates on alternative writs and

orders to show cause; and (3) stipulations by the parties or other orders of the court. [Subdivision adopted effective July 1, 1997.]

Rule 504. Service of papers on the clerk when a party's address is unknown

When service is made under Code of Civil Procedure section 1011(b) and a party's residence address is unknown, the notice or papers delivered to the clerk or the judge, if there is no clerk, shall be enclosed in an envelope addressed to the party in care of the clerk or the judge. The back of the envelope shall bear the following information:

"Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown."

[Name of party whose residence address is unknown]

[Case name and number] [Adopted effective July 1, 1997.]

Rule 860. Granting excuses from jury service

(a) [Duty of citizenship] Jury service, unless excused by law, is a responsibility of citizenship. The court and its staff shall employ all necessary and appropriate means to ensure that citizens fulfill this important civic responsibility.

(b) [Principles] The following principles shall govern the granting of excuses from jury service by the jury commissioner on grounds of undue hardship under Code of Civil Procedure section 204:

(1) No class or category of persons shall be automatically excluded from jury duty except as provided by law.

(2) A statutory exemption from jury service shall be granted only when the eligible person claims it.

(3) Deferring jury service shall be preferred to excusing a prospective juror for a temporary or marginal hardship.

(4) Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury duty, although it may be considered a ground for deferral.

(c) [Requests to be excused] All requests to be excused from jury service that are granted for undue hardship shall be put in writing by the prospective juror, reduced to writing, or placed on the court's record. The prospective juror shall support the request with facts specifying the hardship and a statement why the circumstances constituting the undue hardship cannot be avoided by deferring the prospective juror's service.

(d) [Grounds constituting undue hardship] An excuse on the ground of undue hardship may be granted for any of the following reasons:

(1) The prospective juror has no reasonably available means of public or private transportation to the court.

(2) The prospective juror must travel an excessive distance. Unless otherwise established by statute or local rule, an excessive distance is reasonable

travel time that exceeds one-and-one-half hours from the prospective juror's home to the court.

(3) The prospective juror will bear an extreme financial burden. In determining whether to excuse the prospective juror, consideration shall be given to:

(i) the sources of the prospective juror's household income,

(ii) the availability and extent of income reimbursement,

(iii) the expected length of service, and

(iv) whether service can reasonably be expected to compromise that person's ability to support himself or herself or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.

(4) The prospective juror will bear an undue risk of material injury to or destruction of the prospective juror's property or property entrusted to the prospective juror, and it is not feasible to make alternative arrangements to alleviate the risk. In determining whether to excuse the prospective juror, consideration shall be given to:

(i) the nature of the property,

(ii) the source and duration of the risk,

(iii) the probability that the risk will be realized,

(iv) the reason alternative arrangements to protect the property cannot be made, and

(v) whether material injury to or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.

(5) The prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to undue risk of mental or physical harm. In any individual case, unless the person is aged 70 years or older, the prospective juror may be required to furnish verification or a method of verification of the disability or impairment, its probable duration, and the particular reasons for the person's inability to serve as a juror.

(6) The prospective juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the person of those responsibilities during the period of service as a juror without substantially reducing essential public services.

(7) The prospective juror has a personal obligation to provide actual and necessary care to another, including sick, aged, or infirm dependents, or a child who requires the prospective juror's personal care and attention, and no comparable substitute care is either available or practical without imposing an undue economic hardship on the prospective juror or person cared for. If the request to be excused is based on care provided to a sick, disabled, or infirm person, the prospective juror may be required to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(e) [Prior jury service] A prospective juror who has served on a grand or trial jury or was summoned and appeared for jury service in any state or federal court during the previous 12 months shall be excused from service on request. The jury commissioner, in his or her discretion, may establish a longer period of repose. [Adopted effective July 1, 1997.]

Rule 978. Requesting publication of unpublished opinions

(a) [Request procedure; action by court rendering opinion] A request by any person for publication of an opinion not certified for publication may be made only to the court that rendered the opinion. The request shall be made promptly by a letter stating the nature of the person's interest and stating concisely why the opinion meets one or more of the publication standards. The request shall be accompanied by proof of its service on each party to the action or proceeding in the Court of Appeal. If the court does not, or by reason of the decision's finality as to that court cannot, grant the request, the court shall transmit the request and a copy of the opinion to the Supreme Court with its recommendation for disposition and a brief statement of its reasons. The transmitting court shall also send a copy of its recommendation and reasons to each party and to any person who has requested publication. [Subdivision amended effective July 1, 1997; previously amended effective Jan. 1, 1983, and July 1, 1992; adopted effective July 1, 1975.]

(b)-(c) * * *

Rule 979. Requesting depublication of published opinions

(a) [Request procedure] A request by any person for the depublication of an opinion certified for publication shall be made by letter to the Supreme Court within 30 days after the decision becomes final as to the Court of Appeal. Any request for depublication shall be accompanied by proof of mailing to the Court of Appeal and proof of service to each party to the action or proceeding. The request shall state the nature of the person's interest and shall state concisely reasons why the opinion should not remain published ~~and~~. The request shall not exceed 10 pages. [Subdivision amended effective July 1, 1997.]

(b) [Response] The Court of Appeal or any person may, within 10 days after receipt by the Supreme Court of a request for depublication, submit a response, either joining in the request or stating concisely reasons why the opinion should remain published. A response submitted by anyone other than the Court of Appeal shall state the nature of the person's interest. Any response shall not exceed 10 pages and shall be accompanied by proof of mailing to the Court of Appeal, and proof of service to each party to the action or proceeding, and person requesting depublication. [Subdivision amended effective July 1, 1997.]

(c)-(e) * * *

Rule 1020. Judicial Council advisory committees

(a)-(d) * * *

(e) [Membership appointments] The Chair of the Judicial Council may appoint the members of each advisory committee for terms beginning on ~~January~~ November 1 and ending on ~~December~~ October 31. Except for the Trial Court Budget Commission, the Trial Court Presiding Judges Advisory Committee, the Court Administrators Advisory Committee, and the Administrative Presiding Judges Advisory Committee, committee nominations may be solicited through appointment procedures similar to those used for judicial members of the council. Appointments should be made according to the membership requirements specified in these rules. Terms should be staggered. Whenever a nomination is to be made by a designated group, the group shall forward at least three names for each position to the committee considering nominations generally. That committee shall forward those names, together with at least three names for each other position, to the Chief Justice. The list of nominations shall enable the Chief Justice to appoint a committee that reflects diversity, experience, and geographic balance. The Executive and Planning Committee shall publicize the nomination process and broadly solicit names for vacancies. [Subdivision amended effective July 1, 1997; previously amended effective Aug. 1, 1993, Jan. 1, 1994, July 1, 1994, and July 1, 1995; adopted as subdivision (d) effective July 1, 1993.]

(f)-(p) * * *

CHAPTER 5

Rules For Title IV-D Support Actions

Rule 1280. Purpose, authority, and definitions

(a) [Purpose] The rules in this chapter are adopted to provide practice and procedure for support actions under Title IV-D of the Social Security Act and under California statutory provisions concerning these actions.

(b) [Authority] These rules are adopted pursuant to article VI, section 6 of the California Constitution; Family Code sections 211, 3680(b), 4251(a), 4252(b), and 10010; and Welfare and Institutions Code sections 11350.1(g), 11356(d), and 11475.1(c).

(c) [Definitions] As used in these rules, unless the context requires otherwise, "Title IV-D support action" refers to an action for child or family support that is brought by or otherwise involves the district attorney pursuant to Title IV-D of the Social Security Act. [Adopted effective July 1, 1997.]

Rule 1280.1. Hearing of matters by a judge under Family Code sections 4251(a) and 4252(b)(7)

(a) [Exceptional circumstances] The exceptional circumstances under which a judge may hear a Title IV-D support action include:

(1) The failure of the judge to hear the action would result in significant prejudice or delay to a party including but not limited to added cost or loss of work time.

(2) Transferring the matter to a commissioner would result in undue consumption of court time.

(3) Physical impossibility or difficulty due to the commissioner being geographically separate from the judge presently hearing the matter.

(4) The absence of the commissioner from the county due to illness, disability, death, or vacation.

(5) The absence of the commissioner from the county due to service in another county and the difficulty of travel to the county in which the matter is pending.

(b) [Duty of judge hearing matter] A judge hearing a Title IV-D support action pursuant to this rule and Family Code sections 4251(a) and 4252(b)(7) shall make an interim order and refer the matter to the commissioner for further proceedings.

(c) [Discretion of the court] Notwithstanding sections (a) and (b) of this rule, a judge may, in the interests of justice, transfer a case to a commissioner for hearing. [Adopted effective July 1, 1997.]

Rule 1280.2. Use of existing family law forms

When an existing family law form is required or appropriate for use in a Title IV-D support action, the form may be used notwithstanding the absence of a notation for the other parent as a party pursuant to Welfare and Institutions Code section 11350.1(e). The caption of the form shall be modified by the person filing it by adding the words "Other parent:" and the name of the other parent to the form. [Adopted effective July 1, 1997.]

Rule 1280.3. Memorandum of points and authorities

Notwithstanding any other rule, including rule 313, a notice of motion in a Title IV-D support action shall not be required to contain points and authorities if the notice of motion uses a form adopted or approved by the Judicial Council. The absence of points and authorities under these circumstances shall not be construed by the court as an admission that the motion is not meritorious and cause for its denial. [Adopted effective July 1, 1997.]

Rule 1280.4. State Bar number and district attorney name

Notwithstanding any other rule, including rule 201(e), the name, address, and telephone number of the district attorney of the county shall be sufficient for any papers filed by the district attorney's office. The name of the deputy or assistant district attorney and the State Bar number of the district attorney, the

assistant district attorney, or the deputy district attorney shall not be required.

[Adopted effective July 1, 1997.]

Rule 1401. Definitions; construction of terms

(a) [Definitions] As used in these rules, unless the context or subject matter otherwise requires:

(1)-(14) * * *

(15) "Social study," in section 300 proceedings, means any written report provided to the court and all parties and counsel by the social worker in any matter involving the custody, status, or welfare of a child in a dependency proceeding;

~~(15)~~ **(16)** * * *

~~(16)~~ **(17)** * * * [Amended effective July 1, 1997; previously amended effective July 1, 1992; adopted effective Jan. 1, 1990.]

(b) * * *

Rule 1423. Confidentiality of records (§§ 827, 828)

(a)-(b) * * *

(c) [Petition] With the exception of those persons permitted to inspect juvenile court records without court authorization under sections 827 and 828, every person or agency seeking to inspect or obtain juvenile court records must petition the court for authorization using Judicial Council form JV-570, Petition

for Disclosure of Juvenile Court Records. The specific records sought shall be identified based on knowledge, information, and belief that such records exist and are relevant to the purpose for which they are being sought. Petitioner shall describe in detail the reasons the records are being sought and their relevancy to the proceeding or purpose for which petitioner wishes to inspect or obtain the records. [Subdivision amended effective July 1, 1997.]

(d)-(h) * * *

Rule 1450. Contested hearing on petition

(a) * * *

(b) [Admissibility of evidence--general (§§ 355, 355.1)] Except as provided in section 355.1 and subdivisions (c), (d), and (e), the admission and exclusion of evidence shall be in accordance with the Evidence Code as it applies to civil cases. [Subdivision amended effective July 1, 1997.]

(c) [Reports] A ~~social worker's report that contains information relevant to the jurisdiction hearing shall be admissible if, on request of the parent or guardian, the probation officer or social worker is made available to be cross-examined on the contents of the report~~ social study, with hearsay evidence contained in it, is admissible and is sufficient to support a finding that the child is described by section 300.

(1) The social study shall be provided to all parties and their counsel by the county welfare department within a reasonable time before the hearing.

(2) The preparer of the report shall be made available for cross-examination on the request of any party. The preparer may be on telephone standby if the preparer can be present in court within a reasonable time. [Subdivision amended effective July 1, 1997.]

(d) [~~Inapplicable privileges (Evid. Code, §§ 972, 986)~~ Hearsay in the report (§ 355)] ~~The privilege not to testify nor to be called as a witness against a spouse and the confidential marital communication privilege shall not be available to the parent or guardian.~~ If a party makes an objection with reasonable specificity to particular hearsay in the report and provides petitioner a reasonable period to meet the objection, that evidence shall not be sufficient in and of itself to support a jurisdictional finding, unless:

(1) The hearsay is admissible under any statutory or judicial hearsay exception;

(2) The hearsay declarant is a child under 12 years of age who is the subject of the petition, unless the objecting party establishes that the statement was produced by fraud, deceit, or undue influence and is therefore unreliable;

(3) The hearsay declarant is a peace officer, a health practitioner, a social worker, or a teacher and the statement would be admissible if the declarant were testifying in court; or

(4) The hearsay declarant is available for cross-examination. [Subdivision amended effective July 1, 1997.]

(e) [~~Unrepresented parent or guardian (§ 355)~~ Inapplicable privileges (Evid. Code, §§ 972, 986)] ~~If the parent or guardian is not represented by counsel, objections that could have been made to the evidence shall be deemed made.~~ The privilege not to testify or to be called as a witness against a spouse, and the confidential marital communication privilege, shall not apply to dependency proceedings. [Subdivision amended effective July 1, 1997.]

(f) * * *

(g) [Disposition (§ 356)] After making the findings in subdivision (f), the court shall proceed to a disposition hearing under rules 1451 and 1455. [Subdivision amended effective July 1, 1997.]

(h) [Findings of court—allegations not proved (§ 356)] If the court determines that the allegations of the petition have not been proved by a preponderance of the evidence, the court shall dismiss the petition, terminate any detention orders relating to the petition, and make the following findings, noted in the order of the court:

(1) Notice has been given as required by law;

(2) The birthdate and county of residence of the child;

(3) The allegations of the petition are not proved.

~~The court shall dismiss the petition and terminate detention orders relating to this petition.~~ [Subdivision amended effective July 1, 1997.]

Rule 1456. Orders of the court

(a)-(c) * * *

(d) [Removal of custody—required findings (§ 361)] The court shall not order a dependent removed from the physical custody of a parent or guardian with whom the child resided at the time the petition was filed, unless the court finds by clear and convincing evidence any of the following:

(1) There is a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child or will be if the child is returned home and there is no reasonable alternative means to protect that ~~health~~ child; or

(2)-(5) * * * [Subdivision amended effective July 1, 1997; relettered effective July 1, 1995; adopted effective Jan. 1, 1991, as subdivision (c).]

(e) * * *

(f) [Provisions of reunification services (§ 361.5)]

(1) Except as provided in subdivision ~~(3)~~(4), if a child is removed from the custody of a parent or guardian, the court shall order ~~petitioner~~ the county welfare department to provide child welfare services to the child and the child's mother and statutorily presumed father, or guardian, to facilitate reunification of the

family within 12 months if the child was three years or older at the time of the initial removal, or within 6 months if the child was under three at that time.

(2)-(3) * * *

(4) Reunification services need not be provided to a mother, statutorily presumed father, or guardian, if the court finds, by clear and convincing evidence, any of the following:

(A)-(B) * * *

(C) The child had been previously declared a dependent under any subdivision of section 300 as a result of physical or sexual abuse; following that adjudication the child had been removed from the custody of the parent or guardian under section 361; the child has been returned to the custody of the parent or guardian from whom the child had been taken originally; ~~the jurisdiction of the court has not been terminated;~~ and the child is being removed under section 361 because of additional physical or sexual abuse.

(D) The parent or guardian of the child has ~~been convicted of causing~~ caused the death of another child through abuse or neglect.

(E) * * *

(F) The child is a dependent as a result of the determination that the child, a sibling, or a half-sibling suffered severe sexual abuse as defined in section 361.5(b)(6), by the parent or guardian, or that the parent or guardian inflicted severe physical harm, as defined in section 361.5(b)(6) on the child, a sibling, or a

half-sibling, and the court finds that attempts to reunify would not benefit the child. The court shall specify on the record the basis for the finding that the child suffered severe sexual abuse or the infliction of severe physical harm.

(G) The parent or guardian is not receiving reunification services for a sibling or half-sibling of the child, for reasons under subdivision (C), (E), or (F).

~~(G)~~ **(H)** The child was conceived as a result of the parent having committed an offense listed in Penal Code section 288 or 288.5, or by an act described by either section but committed outside California.

(I) The court has found that the child is described by subdivision (g) of section 300, that the child was willfully abandoned by the parent or guardian, and that the abandonment constituted serious danger to the child as defined in section 361.5(b)(9).

(J) A sibling or half-sibling of the child:

(i) has been the subject of a court-ordered permanent plan after having been removed from the custody of the parent or guardian of the child before the court for the disposition hearing, or has been declared free from the care and custody of the parent or guardian under Welfare and Institutions Code section 366.26 or Family Code section 7800 et seq. and ordered placed for adoption; and

(ii) the court finds that the parent or guardian has not made a reasonable effort to treat the problems that led to the removal of the sibling or half-sibling from that parent or guardian.

(K) The parent or guardian has been convicted of a violent felony as defined in Penal Code section 667.5(c).

(L) The parent or guardian has a history of extensive, abusive, and chronic use of alcohol or other drugs, and has not sought or participated in treatment during the three years immediately prior to the filing of the petition under section 300, or has failed, on at least two prior occasions, to comply with an available and accessible treatment program described in the case plan required by section 358.1, and the removal of the child is based in whole or in part on the risk to the child presented by the use of alcohol or other drugs.

(5)-(6) * * *

(7) ~~When it is alleged that reunification services should not be ordered because the parent is described by section 361.5(b)(2), the court shall order reunification services unless competent evidence from mental health professionals establishes by clear and convincing evidence that the parent is unlikely to be able to care for the child within the next 12 months.~~ If the court finds under subdivision (4)(A) that the whereabouts of the parent or guardian are unknown and that a diligent search has failed to locate the parent or guardian, the court shall not order reunification services and shall set the matter for a six-month review hearing. If the parent or guardian is located prior to the six-month review and requests reunification services, the welfare department shall seek a modification of the disposition orders. The time limits for reunification services shall be calculated

from the date of the initial removal, and not from the date the parent is located or services are ordered.

(8) ~~When it is alleged that reunification services should not be ordered under section 361.5(b)(3), (4), or (5), the court shall not order reunification services unless it finds by a preponderance of the evidence that the services are likely to prevent reabuse or neglect or that failure to attempt reunification will be detrimental to the child.~~ If the court finds that allegations under subdivision (4)(B) are proved, the court shall nevertheless order reunification services unless evidence by mental health professionals establishes by clear and convincing evidence that the parent is unlikely to be able to care for the child within the next 12 months.

(9) ~~When it is alleged that reunification services should not be ordered under section 361.5(b)(6), the court shall not order services unless it finds, based on a consideration of the factors in section 361.5(h), that services will benefit the child. If the court orders no services to the offending parent or guardian, the court shall specify the factual findings on which it based its determination that the child will not benefit from services.~~ If the court finds that the allegations under subdivision (4)(C), (D), (F), (H), (I), (K), or (L) have been proved, the court shall not order reunification services unless the court finds by clear and convincing evidence that reunification is in the best interest of the child. If subdivision (4)(F) is found to apply, the court shall consider the factors in section 361.5(h) in

determining whether the child will benefit from services, and shall specify on the record the factual findings on which it based its determination that the child will not benefit.

(10) ~~When it is alleged that reunification services should not be ordered under section 361.5(b)(7), the court shall not order reunification services unless it finds by clear and convincing evidence that reunification is in the best interest of the child.~~ If the court finds that the allegations under subdivision (4)(E) have been proved, the court shall not order reunification services unless it finds, based on consideration of factors in section 361.5(b) and (c), that services are likely to prevent reabuse or continued neglect or that failure to attempt reunification will be detrimental to the child.

(11) * * *

(12) If, with the exception of subdivision (4)(A), the court orders no reunification services for ~~a~~ every parent otherwise eligible for such services under ~~section 361.5(b)(2), (3), (4), (5), (6), or (7),~~ subdivisions (f)(1) and (2), ~~it~~ the court shall conduct a hearing under section 366.26 within 120 days.

(13)-(16) * * * [Subdivision amended effective July 1, 1997; previously amended effective Jan. 1, 1993, July 1, 1993, Jan. 1, 1994, and Jan. 1, 1995; relettered effective July 1, 1995; amended effective Jan. 1, 1996; adopted effective Jan. 1, 1991, as subdivision (e).]

(g)-(i) * * *

(j) [Setting a hearing under section 366.26] At the disposition hearing, the court shall not set a hearing under section 366.26 to consider termination of the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. [Subdivision adopted effective July 1, 1997.]

Rule 1458. Restraining orders

~~**(a) [Orders before declaration of dependency]** During the pendency of a proceeding to declare a child a dependent, the court may issue restraining orders as provided in section 213.5. The restraining orders may be prepared on Judicial Council form Restraining Order–Juvenile (JV-250).~~

~~**(b) [Orders after declaration of dependency]** If a child has been declared a dependent, the court on its own motion may issue orders to either parent enjoining any action specified in Family Code section 2045. The court shall direct that Judicial Council form Restraining Order–Juvenile (JV-250) be prepared. The orders shall be enforceable in the same manner as any other order issued under section 2045 of the Family Code.~~

After a petition has been filed under section 300, and until the petition is dismissed or dependency is terminated, the court may issue restraining orders as

provided in section 213.5. The restraining orders shall be prepared on Judicial Council form Restraining Order—Juvenile (JV-250). [Amended effective July 1, 1997; previously amended effective Jan. 1, 1994, and Jan. 1, 1995; adopted effective Jan. 1, 1990.]

Rule 1459. Setting a hearing under section 366.26

At a disposition hearing, ~~or at~~ a review hearing, or at any other hearing regarding a dependent child, the court ~~may~~ shall not set a hearing under section 366.26 to consider termination of the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated ~~under former Civil Code section 224, 224m, 232, or 7017, or under Division 12, Part 3, Chapter 5 (commencing with section 7660) or Part 4 (commencing with section 7800) of the Family Code, or Family Code section 8604, 8605, or 8606~~ by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. [Amended effective July 1, 1995; previously amended effective Jan. 1, 1994; adopted effective July 1, 1990.]

Rule 1460. Six-month review hearing

(a)-(e) * * *

(f) [Conduct of hearing (§§ 366.2, 366.21)]

(1) * * *

(2) If the child was declared a dependent child after January 1, 1989, and the court does not terminate jurisdiction over the child,

(A) The court may set a hearing under section 366.26 within 120 days if:

(i) the child was removed under section 300(g) and the court finds by clear and convincing evidence that the parent's whereabouts are still unknown; or

(ii) the court finds by clear and convincing evidence that the parent has not had contact with the child for six months; or

(iii) the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness. ; or

(iv) the parent is deceased; or

(v) the child was under the age of three when initially removed and the court finds by clear and convincing evidence that the parent has failed to participate regularly in any court-ordered treatment plan, unless the court finds a substantial probability that the child may be returned within six months or that reasonable services have not been offered or provided.

(B)-(G) * * * [Subdivision amended effective July 1, 1997; previously amended and relettered effective Jan. 1, 1992; previously amended effective Jan. 1, 1993, and Jan. 1, 1995; repealed and adopted as subdivision (e) effective Jan. 1, 1990.]

(g) * * *

(h) [Setting a hearing under section 366.26] At the six-month review hearing, the court shall not set a hearing under section 366.26 to consider termination of the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. [Subdivision adopted effective July 1, 1997.]

Rule 1461. Twelve-month review hearing

(a)-(b) * * *

(c) [Children declared dependents after January 1, 1989] The following provisions apply to children declared dependents after January 1, 1989.

(1) * * *

(2) [*Conduct of hearing*] At the hearing, the court shall state on the record that the court has read and considered the report of petitioner, the report of any court-appointed child advocate, and other evidence, and shall proceed as follows:

(A)-(C) * * *

(D) The court shall consider whether reasonable services have been provided ~~and shall find that:~~. Evidence that the child has been placed with a relative or foster family that is eligible to adopt, or has been placed in a

preadoptive home, shall not be sufficient to support a finding that reasonable services have not been offered or provided. The court shall find that:

(i)-(ii) * * *

(3) * * * [Subdivision amended effective July 1, 1997; previously amended effective Jan. 1, 1992, Jan. 1, 1993, Jan. 1, 1995, and July 1, 1995; repealed and adopted effective Jan. 1, 1990.]

(d) [Setting a hearing under section 366.26] At the 12-month review hearing, the court shall not set a hearing under section 366.26 to consider termination of the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. [Subdivision adopted effective July 1, 1997.]

Rule 1462. Eighteen-month review hearing

(a)-(b) * * *

(c) [Setting a hearing under section 366.26] At the 18-month review hearing, the court shall not set a hearing under section 366.26 to consider termination of the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated by a California court

of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. [Subdivision adopted effective July 1, 1997.]

Rule 1463. Selection of permanent plan (§ 366.26)

(a)-(e) * * *

(f) [Procedures—legal guardianship] The proceedings for appointment of a legal guardian for a dependent child of the juvenile court shall be in the juvenile court as provided in rule ~~1464~~ 1465. [Subdivision amended effective July 1, 1997; repealed and adopted effective Jan. 1, 1991, as subdivision (e); relettered effective Jan. 1, 1992.]

(g) [Purpose of termination of parental rights] The purpose of termination of parental rights is to free the dependent child for adoption. Therefore, the court shall not terminate the rights of only one parent unless that parent is the only surviving parent, or the rights of the other parent have been terminated by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state, or the other parent has relinquished custody of the child to the county welfare department. The rights of the mother, any presumed father, any alleged father, and any unknown

father or fathers must be terminated in order to free the child for adoption.

[Adopted effective July 1, 1997.]

~~(g)~~ **(h)** * * * [Subdivision relettered effective July 1, 1997.]

Rule 1465. Legal guardianship

(a) [Proceedings in juvenile court (§§ 366.25, 366.26)] The proceedings for the appointment of a legal guardian for a dependent child shall be in the juvenile court. The request for appointment of a guardian ~~may~~ shall be included in the social study report prepared by the county welfare department or in the assessment prepared for the hearing under section 366.26. ~~A~~ Neither a separate petition nor a separate hearing shall ~~not~~ be required. [Subdivision amended effective July 1, 1997.]

(b)-(e) * * *

Rule 2008. Service of papers by facsimile transmission

(a)-(c) * * *

(d) [When service complete] Except as provided in subdivision (e), service by fax is complete upon receipt of the entire document by the receiving party's facsimile machine. Service that occurs after 5 p.m. shall be deemed to have occurred on the next court day. Time shall be extended as provided by this rule. [Subdivision amended effective July 1, 1997.]

(e) [Proof of service by fax] Proof of service by fax may be made by any of the methods provided in Code of Civil Procedure section 1013a, except that:

(1)-(2) * * *

(3) A statement that the document was transmitted by facsimile transmission and that the transmission was reported as complete and without error shall be used in lieu of the statement that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid; ~~and~~

(4) A copy of the transmission report shall be attached to the proof of service and the proof of service shall declare that the transmission report was properly issued by the transmitting facsimile machine~~.~~ ; and

(5) Service of papers by fax is ineffective if the transmission does not fully conform to these provisions and include a Facsimile Transmission Cover Sheet, as provided in rule 2009. [Subdivision amended effective July 1, 1997.]

Sec. 4.5. Granting excuses from jury services [Repealed effective July 1, 1997.]

Sec. 4.5. Juror complaints

Each court should establish a reasonable mechanism for receiving and responding to juror complaints. [Adopted effective July 1, 1997.]

Sec. 4.6. Accuracy of master jury list

The jury commissioner should use the National Change of Address System or other comparable means to update jury source lists and create as accurate a list as reasonably practical. [Adopted effective July 1, 1997.]

Sec. 8.9. Trial management standards

(a) [General principles] The trial judge has the responsibility to manage the trial proceedings. The judge should take appropriate action to ensure that all parties are prepared to proceed, the trial commences as scheduled, all parties have a fair opportunity to present evidence, and the trial proceeds to conclusion without unnecessary interruption. When the trial involves a jury, the trial judge should manage proceedings with particular emphasis upon the needs of the jury.

(b) [Techniques of trial management] The trial judge should employ the following trial management techniques:

(1) Participate with trial counsel in a trial management conference before trial.

(2) After consultation with counsel, set reasonable time limits.

(3) Arrange the court's docket to start trial as scheduled and inform parties of the number of hours set each day for the trial.

(4) Ensure that once trial has begun, momentum is maintained.

(5) Be receptive to using technology in managing the trial and the presentation of evidence.

(6) Attempt to maintain continuity in days of trial and hours of trial.

(7) Schedule arguments on legal issues at the beginning or end of the day so as not to interrupt the presentation of evidence.

(8) Permit sidebar conferences only when necessary, and keep sidebar conferences as short as possible.

(9) In longer trials, consider scheduling trial days to permit jurors time for personal business. [Adopted effective July 1, 1997.]

Sec. 24.5. Resource guidelines for child abuse and neglect cases

(a) [Guidelines] To improve the fair and efficient administration of child abuse and neglect cases in the California juvenile dependency system, judges and judicial officers assigned to the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior or consolidated

court, are encouraged to follow the resource guidelines of the National Council of Juvenile and Family Court Judges, entitled "Resource Guidelines Improving Court Practice in Child Abuse & Neglect Cases." The guidelines are meant to be goals to help courts achieve, among other objectives, the following:

(1) Adherence to statutory timelines;

(2) Effective calendar management;

(3) Effective representation by counsel;

(4) Child-friendly court facilities;

(5) Timely and thorough reports and services to ensure informed judicial decisions, including reasonable efforts findings; and

(6) Minimum time allocations for specified hearings.

(**b) [Distribution of guidelines]** The Administrative Office of the Courts will distribute a copy of the resource guidelines to each juvenile court and will provide individual copies to judicial officers and court administrators upon written request.

Advisory Committee Comment

Child abuse and neglect cases impose a special obligation on juvenile court judges to oversee case progress. Case oversight includes monitoring the agency's fulfillment of its responsibilities and parental cooperation with the case plan.

Court involvement in child welfare cases occurs simultaneously with agency efforts to assist the family. Federal and state legal mandates assign to the juvenile court a series of interrelated and complex decisions that shape the course of state intervention and determine the future of the child and family.

Unlike almost all other types of cases in the court system, child abuse and neglect cases deal with an ongoing and changing situation. In a child welfare case, the court must focus on agency casework and parental behavior over an extended period of time. In making a decision, the court must take into account the agency's plan to help the family and anticipated changes in parental behavior. At the same time, the court must consider the evolving circumstances and needs of each child.

The purpose of these resource guidelines is to set forth the essential elements of properly conducted court hearings. The guidelines describe the requirements of juvenile courts in fulfilling their oversight role under federal and state laws, and they specify the necessary elements of a fair, thorough, and speedy court process in child abuse and neglect cases. The guidelines cover all stages of the court process, from the initial removal hearing to the end of juvenile court involvement. These guidelines assume that the court will remain involved until after the child

has been safely returned home, has been placed in another permanent home, or has reached adulthood.

Currently, juvenile courts in California operate under the same juvenile court law and rules, and yet the rules are implemented with considerable variation throughout the state. In part, this is due to the lack of resource guidelines. The adoption of the proposed resource guidelines will help encourage more consistent juvenile court procedures in the state.

The guidelines are meant to be goals, and as such, some of them may appear out of reach because of fiscal constraints or lack of judicial and staff resources. The Judicial Council Family and Juvenile Law Advisory Committee and staff of the Administrative Office of the Courts are committed to providing technical assistance to each juvenile court to aid in implementing these goals. [Adopted effective July 1, 1997.]

Sec. 25.4. Judicial education for juvenile dependency court judicial officers

Each judicial officer whose principal judicial assignment is to hear juvenile dependency matters or who is the sole judicial officer hearing juvenile dependency matters should attend judicial education programs as follows:

(1) (*Basic education*) Within one year of beginning a juvenile dependency assignment, the judicial officer should receive basic education on California juvenile dependency law and procedure designed primarily for judicial officers. All other judicial officers who hear juvenile dependency matters, including retired judges who sit on court assignment, should participate in appropriate educational programs, including written materials and videotapes designed for self-study.

(2) (*Continuing education*) The judicial officer should annually attend the Center for Judicial Education and Research (CJER) Juvenile Law and Procedure Institute and one additional education program related to juvenile dependency law, including programs sponsored by CJER, the California Judges Association, the Judicial Council, the National Judicial College, the National Council of Juvenile and Family Court Judges, and other programs approved by the presiding judge. The use of video and audiotapes may substitute for attendance. [Adopted effective July 1, 1997.]

Sec. 25.5. Judicial educational program on juvenile dependency law

(a) [Comprehensive curriculum] The Center for Judicial Education and Research (CJER) should provide a comprehensive curriculum on juvenile dependency law and procedure for judicial officers who hear juvenile dependency matters. The curriculum should include (1) California law and procedure relevant to juvenile dependency matters; (2) interagency relationships; (3) the effects of

gender, race, and ethnicity on juvenile dependency proceedings; and (4) interdisciplinary subjects relating to juvenile law matters, including child development, child witness, substance abuse, family violence, child abuse (including sexual abuse), adoption, and stress related to the juvenile court assignment. The curriculum should also include an instruction component at the Judicial College and materials for local court use and self-study.

(b) [Periodic updates] CJER should conduct an annual educational program that provides an update on (1) new developments, (2) innovative programs and court practices, and (3) fair and efficient procedures in juvenile law. [Adopted effective July 1, 1997.]